

### **SUMMARY OF CLAIMS**

Claims 1-25 and 45-53 are withdrawn. Claims 26-44 are amended. Claims 54-57 are new. Claims 26-44 and 54-57 are pending. Reconsideration is respectfully requested in light of the following remarks.

### **REMARKS**

#### **I. Priority**

The specification is now amended to claim priority to the two U.S. Provisional Applications, 60/353,176 and 60/421,772, listed on the face of the International Application, WO 03/067504. Further, Applicants filed a Request for Corrected Filing Receipt on August 19, 2009 to correct the listing of the U.S. provisional applications as foreign applications.

#### **II. Specification**

The disclosure is objected to because line 29 of page 26 of the International Application contains an embedded hyperlink and/or other form of browser-executable code. The objection is now moot as Applicants have amended line 29 of page 26 to delete the browser-executable code. Hence, Applicants respectfully request the withdrawal of the objection.

#### **III. Claim Rejections under 35 U.S.C. §101**

Claims 26-44 are rejected under 35 U.S.C. §101 for allegedly being directed to non-statutory subject matter. More specifically, it is alleged that the instant claims are drawn to an abstract idea that is “not tied to any particular apparatus or machine” and therefore do not meet the machine-or-transformation test as set forth in *In re Bilski* 545 F.3d 943, 88 USPQ2d 1385 (Federal Circuit, 2008). Applicants respectfully traverse the rejection.

The rejection is now moot as Applicants amended claims 26-44 to recite a computer system for evaluating user-supplied genomics data. Consequently, the amended claims recite a tangible apparatus and not an allegedly intangible process. Therefore, Applicants respectfully request the withdrawal of the rejection of claims 26-44 under 35 U.S.C. §101.

#### **IV. Claim Rejections under 35 U.S.C. §112**

Claims 38 and 44 are rejected under 35 U.S.C. §112, second paragraph for allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. More specifically, claims 38 and 44 are alleged to have insufficient antecedent basis.

Claims 38 and 44 are amended to depend from claim 27 instead of claim 26. Consequently, there is antecedent basis for a pregeneration step. Therefore, Applicants respectfully request the withdrawal of the rejection under 35 U.S.C. §112, second paragraph.

#### **V. Claim Rejections under 35 U.S.C. §102**

Claims 26-41 and 44 are rejected under 35 U.S.C. 102(e) for allegedly being anticipated by Chandra et al. (2004/0249620). Applicants traverse the rejection.

Applicants respectfully note that the specification is now amended to properly claim priority to U.S. Provisional Appl. No.: 60/353,176 with a filing date of February 4, 2002 and to U.S. Provisional Appl. No.: 60/421,772 with a filing date of October 29, 2002. Both of these applications were filed earlier than November 20, 2002, the filing date of the earliest provisional application to which Chandra et al. claim priority. Consequently Chandra et al. cannot anticipate the instant invention and therefore, Applicants respectfully request the withdrawal of the rejection under 35 U.S.C. 102(e).

#### **VI. Claim Rejections under 35 U.S.C. §103**

Claims 26, 40, 41 and 42 are rejected under 35 U.S.C. 103(a) for allegedly being unpatentable over Chandra et al. (2004/0249620) in view of Qu et al. (Intelligent Systems in Biology(2002) March/April, pages 21-27). Applicants traverse the rejection.

As noted in Section V above, the instant application has an earlier priority date than Chandra et al. Additionally, the priority date is earlier than Qu et al. For both of these reasons, the cited references cannot make obvious the claims of the instant invention. Therefore, Applicants respectfully request the withdrawal of the rejection under 35 U.S.C. 103(a).

**CONCLUSION**


In light of the remarks set forth above, Applicants believe that they are entitled to letters patent. Applicants respectfully solicit the Examiner to expedite the prosecution of this patent application to issuance. Should the Examiner have any question, the Examiner is encouraged to telephone the undersigned.

The Commissioner is authorized to charge any underpayment or credit any overpayment to Deposit account No. 23-2415 (Attorney Docket No. 27763-705.831) for any matter in connection with this response, including any fee for extension of time, which may be required.

Respectfully submitted,

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